REMARKS

Claims 1-30 are pending. Claims 10, 16 and 24 are amended to clarify that they are directed towards "computer-implemented" methods.

Claim Rejections Under 35 U.S.C. § 101

On page 3 the Office Action rejects claims 10-15, 16-23 and 24-30 are rejected under 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Applicants respectfully traverse this rejection. While stating that its rejection is based on Supreme Court precedent, recent Federal Circuit decisions and the Office's guidance, the Office Action cites no Federal Circuit decisions, no official Office guidance and no case more recent than the *Diamond v. Diehr* Supreme Court case from 1981. In other words, the Office Action completely ignores recent Federal Circuit and Supreme Court decisions and provides no meaningful support for its position that a process must be tied to another statutory class or transform underlying subject matter. Nonetheless, Applicant has amended independent claims 10, 16 and 24 to indicate that these claims are directed towards "computer-implemented" methods. As computer-implemented methods, elements such as "receiving data," "summing" or "transmitting data" clearly transform underlying subject matter. For example, receiving data transforms the computer which receives the data (*i.e.*, the data is received and must, therefore, be stored, at least temporarily, in the memory of the computer).

Claim Rejections Under 35 U.S.C. § 103

On page 4 of the Office Action rejects claims 10-15, 16-23, 1-9, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over (1) AAPA (applicant admitted prior art) in view of (2) PROIETTI. "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." MPEP 2143.03 (emphasis added). The combined references fail to teach or suggest all the claim limitations.

For example, the AAPA and PROIETTI fail to teach or suggest "summing the quantity of assets of the at least one asset class *for all of the plurality of iCOD computers on the network*," as recited in claim 10. The Examiner cites to the Background of the present application (the alleged AAPA) as purportedly teaching this element. Once again, however, it is clear that the Examiner is utterly misinterpreting the Background.

In the Response to Arguments, the Examiner states that Applicant's argument that the "current iCOD pricing system also treats each iCOD system individually for purposes of

auditing the CPU totals" is not persuasive. The Examiner goes on to state that p. 1, lines 15-22 of the present application "talks about the total number of CPUs." What is clear from the Examiner's statements is that he understands the Background as talking about the total number of CPUs across all of a plurality of iCOD computers; this could not be more incorrect. Rather, the Background is only talking about the total number of CPUs in a *single* computer system. "The iCOD customer pays only for active central processing units (CPUs) in *a given computer system*, plus some maintenance fees, while *the computer system may include a number of inactive CPUs*." See Background, p. 1, lines 7-9 (emphasis added). As noted in the 11/1999 article, discussed below, an iCOD computer could be a server with many CPUs. This statement makes clear that the iCOD computer system includes a plurality of CPUs. Therefore, the Background is not talking about the total number of CPUs across a plurality of computers, but merely the total number of CPUs on a "given computer system." Every reference in the Background to "the system" is refers to the "given computer system" and is consistent with this conclusion. This is emphasized by the last paragraph of the Background which states:

> The current iCOD pricing system also treats each iCOD system individually for purposes of auditing the CPU totals. An iCOD customer with four iCOD computers thus has *four individual and separate iCOD contracts or accounts.* Using the current iCOD system, the iCOD customer who has more active CPUs than necessary on *one iCOD computer* but insufficient CPUs on a second iCOD computer *cannot* shift the "excess" CPUs from the first iCOD computer to the second iCOD computer. Rather, this iCOD customer must pay to activate additional CPUs on the second iCOD computer.

Page 2, lines 5-11 (emphasis added). This paragraph clearly indicates that the preceding discussion of multiple CPUs is referring to multiple CPUs on <u>one</u> iCOD computer. To attempt to interpret the Background any differently is to completely ignore this fact and the very clear statements made in the Background that the current iCOD pricing system also treats each iCOD system individually for purposes of auditing the CPU totals. The Examiner notes this statement but states that is not persuasive as it "appears to deal with 'pricing' issue and not 'auditing report.'" This is a rather interesting statement since it states old iCOD pricing systems treat "each iCOD system individually for *purposes of auditing* the CPU totals." Clearly, this statement deals with auditing reports and auditing.

Moreover, the Examiner also states the background "can have many embodiments or teachings" and the "selection of 1 embodiment is proper to indicate the AAPA teaching." While Applicant does not disagree with this statement, it is inapplicable to the present application. The present application only describes one "embodiment" in the Background,

that of the iCOD pricing system existing at the time of filing the application, one in which each iCOD system was treated individually for purposes of auditing the CPU totals. Consequently, the AAPA does not teach or suggest "summing the quantity of assets of the at least one asset class *for all of the plurality of iCOD computers on the network*," as recited in claim 10. PROIETTI does not cure this defect. Therefore, claim 10 is not rendered obvious by the AAPA and PROIETTI. Dependent claims 11-15 are allowable for at least these reasons and their own independent features.

Independent claims 1, 16 and 24 are likewise not rendered obvious for similar reasons. For example, AAPA and PROIETTI do not teach or suggest a memory that stores "sums, across *all of the plurality of iCOD computers*, of the monitored assets for at least one asset class," or instructions for executing "a notification process that provides a notification when the total amount of inactive assets in at least one asset class for *all of the plurality of iCOD computers* changes," as recited in claim 1. For example, AAPA and PROIETTI do not teach or suggest "receiving a notification if a total quantity of assets for the at least one asset class for *all of the iCOD computers* on the network differs from a previously specified total quantity of assets of the at least one asset class for *all of the iCOD computers* on the network," as recited in claim 16. For example, AAPA and PROIETTI do not teach or suggest "summing, for each cluster, the quantity of assets by asset class for *all iCOD computers in each cluster*, thereby obtaining a total quantity of assets for each asset class for each cluster," as recited in claim 24. Consequently, AAPA and PROIETTI do not render obvious claims 1, 16 and 24. Therefore, dependent claims 2-9, 17-23 and 25-30 are allowable for at least these reasons and their own independent features.

On page 9 of the Office Action rejects claims 10-15, 16-23, 1-9, 24-30 are rejected (2nd time) under 35 U.S.C. 103(a) as being unpatentable over (1) AAPA (applicant admitted prior art) in view of (2) ARTICLE 11/1999 and (3) PROIETTI. The combined references fail to teach or suggest all the claim limitations.

Specifically, the addition of ARTICLE 11/1999 does not overcome the defects described above of AAPA and PROIETTI. For example, ARTICLE 11/1999, alone or combined with AAPA and PROIETTI does not teach or suggest, "summing the quantity of assets of the at least one asset class *for all of the plurality of iCOD computers on the network*," as recited in claim 10, a memory that stores "sums, across *all of the plurality of iCOD computers*, of the monitored assets for at least one asset class," or instructions for executing "a notification process that provides a notification when the total amount of inactive assets in at least one asset class for *all of the plurality of iCOD computers* changes,"

as recited in claim 1, "receiving a notification if a total quantity of assets for the at least one asset class for *all of the iCOD computers* on the network differs from a previously specified total quantity of assets of the at least one asset class for *all of the iCOD computers* on the network," as recited in claim 16 or "summing, for each cluster, the quantity of assets by asset class for *all iCOD computers in each cluster*, thereby obtaining a total quantity of assets for each asset class for each cluster," as recited in claim 24. This is not surprising since the 11/1999 article describes the same existing iCOD pricing system as described in the Background. Indeed, the fourth paragraph of ARTICLE 11/1999 states that "Customers choosing the iCOD option will receive a server with up to the full complement of processors (four for the L-Class, eight for the N-Class and 32 for the V-Class); however, they only pay for the processors they plan to use." This clearly supports Applicant's argument above that the discussion in the Background was referring to CPUs in *one* iCOD computer system, not all the CPUs across all iCOD computer systems on a network. Consequently, claims 1, 10, 16 and 24 are not rendered obvious by AAPA, ARTICLE 11/1999 and PROIETTI. Dependent claims 2-9, 11-15, 17-23 and 25-30 are allowable for at least these reasons and their own independent features.

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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